



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/442,347	11/17/99	THOMPSON	00216-488001

WILLIAM E BOOTH
FISH & RICHARDSON PC
225 FRANKLIN STREET
BOSTON MA 02110-2804

QM02/1219

EXAMINER
DEAL, D

ART UNIT	PAPER NUMBER
3754	

DATE MAILED: 12/19/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/442,347

Applicant(s)
Thompson et al.

Examiner
David Deal

Group Art Unit
3754



☒ Responsive to communication(s) filed on Dec 8, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-36 is/are pending in the application.

Of the above, claim(s) 3, 4, 6-9, 11, 18-20, 22, 23, and 27-36 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1, 2, 5, 10, 12-17, 21, and 24-26 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 3,5

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit:

DETAILED ACTION

Election/Restriction

1. Applicant's election without traverse of species A (figure 2) in Paper No. 7 is acknowledged.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 5, 21 and 24-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Baldwin.

Baldwin discloses a hand held pressurized product dispenser of pressurized spray of any nature (column 2, line 3) comprising a container 2 having a top 8, a handengageable body portion 4, and a bottom 6. Baldwin further comprises a valve mechanism 32 and a valve actuation lever 92. The valve actuation lever is pivoted about point 80 such that the valve engaging portion is located between the pivot and the lever end.

Art Unit:

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.


5. Claims 2, 10, 12-17 and 24-26 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicant claims a "product delivery member" and a "product holding structure" in line 7 of claim 2. The specification is silent as to what these elements comprise.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Patents to Edman et al., Morane et al., Dootson, Gring et al., and Laszlo disclose devices similar to applicant's invention.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Deal whose telephone number is (703) 308-2782.

D.D. AD 12.15.00
December 15, 2000


KEVIN SHAVER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700
12/15/00